SEP 0 1 2005

နို Practitioner's Docket No. $oldsymbol{\square}$

CPI 90111

PATENT

Patent application	
of	
	Inventor(s)
for	Fitle of invention
	OR
In re application of: Wayne A. D	amrau
Application No.‡0 /537,241	Group Art Unit:
Filed: May 31, 2005	Examiner:
For: Doctor Apparatus	
Commissioner for Patents	
P.O. Box 1450 Alexandria, VA 22313-1450	
BEFORE MAILING OF FIRS	E MONTHS OF FILING OR T OFFICE ACTION (37 C.F.R. § 1.97(b)) DER 37 C.F.R. §§ 1.8(a) and 1.10*
	he Express Mail label number is mandatory ; all certification is optional.)
I hereby certify that, on the date shown below,	this correspondence is being:
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37 C.F.R. § 1.8(a)	37 C.F.R. § 1.10 *
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☐ facsimile transmitted to the Patent and Trac	demark Office, (703)
	Delever Houcke .
August 29, 2005	Signature Deborah Konjeki

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(type or print name of person certifying)

(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office
Action [6-3]—page 1 of 3)

NOTE: 37 C.F.R. 1.98(b):

- (1) Each U.S. patent listed in an information disclosure statement must be identified by inventor, patent number, and issue date.
- (2) Each U.S. patent application publication listed in an information disclosure statement shall be identified by applicant, patent application publication number, and publication date.
- (3) Each U.S. application listed in an information disclosure statement must be identified by the inventor, application number, and filing date.
- (4) Each foreign patent or published foreign patent application listed in an information disclosure statement must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.
- (5) Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication.
- WARNING: No extension of time can be had under 37 C.F.R. § 1.136 (a) or (b) for filing an IDS. 37 C.F.R. § 1.97(f).
- NOTE: The "filing date of a national application" under 37 C.F.R. § 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 C.F.R. § 1.53(b) as "the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) any drawing required by § 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1.41." 37 C.F.R. § 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. § 371(c) within the periods set forth in § 1.494 or § 1.495. 35 U.S.C. § 371(c) requires the filing of the following: (1) the basic national fee; (2) a copy of the international application, unless already sent by the International Bureau, and optionally an English translation if filed in another language; and, also optionally (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. The optional items must be submitted later, with surcharges. 37 C.F.R. § 1.97(b)(2).

IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

The information disclosure statement submitted herewith is being filed within three months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office action on the merits, whichever event occurs last. 37 C.F.R. § 1.97(b).

- NOTE: "No certification or fee is due when the filing is made within the above time period. It is advisable to ensure that no Office action has been mailed if the disclosure statement is delayed until after three months from filing."
- NOTE: "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 C.F.R. 1.8, or Express Mail certificate under 37 C.F.R. 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39). See also § 609, M.P.E.P., 8th Edition.
- NOTE: "The term 'national application' includes continuing applications (continuations, divisions, continuationsin-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

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Action [6–3]—page 2 of 3)

NOTE: "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirements (37 C.F.R. 1.142) or just a requirement for additional fees to have a claim considered (37 C.F.R. 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

WARNING: "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 C.F.R. § 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63). But see § 103(b) and (c), limited suspension of action in a continued prosecution application (CPA) filed under § 1.53(d) and in a request for continued examination (RCE) under § 1.114.

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SIGNATUR	E OF PRAC	MIONER	ner-

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P.O. Address

(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office
Action [6-3]—page 3 of 3)



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Wayne A. Damrau)	Examiner:
Serial No.: 10/537,241)	Group Art Unit:
Filed: May 31, 2005)	
Title: Doctor Apparatus)	
Atty Docket: CPI-90111)	
Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450		
INFORMATION DISCLOSURE ST	<u> </u>	ENT - 37 C.F.R. §1.97(b)
Sir:		y
Enclosed is a copy of Information	Disclosu	ure Citation Form PTO/SB/08A
together with copies of the documents cited	d on tha	t form. It is respectfully

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as parcel post mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 29, 2005.

Deliocal Konicki .

requested that the cited documents be considered and that the enclosed copy of Information Disclosure Citation Form PTO/SB/08A be initialed by the Examiner to indicate such consideration and a copy thereof returned to applicant.

Pursuant to 37 C.F.R. §197(h), the submission of this Information

Disclosure Statement is not to be construed as a representation that a search has been made and is not to be construed as an admission that the information cited in this statement is material to patentability.

Pursuant to 37 C.F.R. §1.97, this Information Disclosure Statement is being submitted under 37 C.F.R. §1.97(b).

Should any fee be required, please charge Account No. 10-1324.

Respectfully submitted,

Michael Piontek, Reg. No. 25,605

Pyle & Piontek

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Approved for use through 04/30/2003. OMB 0651-0031

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Complete if Known		
Application Number	11/537,241	
Filing Date	May 31, 2005	
First Named Inventor	Wayne A. Damrau	
Art Unit		
Examiner Name		
Attorney Docket Number	CPI-90111	

	U. S. PATENT DOCUMENTS				
Examiner Initials*	Cite No.1	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ^{2 (If known)}			
	A	US-4,250,211		Damrau et al.	
	В	US-4,316,428		Flaum et al.	
	С	US- 5,749,972		Bernert et al.	
	· D	^{US-} 5,958,513		Madrzak	
	E	US-6,159,289		Madrzak Kurtz et al.	<u> </u>
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		FOREIC	ON PATENT DOCU	MENTS		,
Examiner Initials*	Cite No.1	Foreign Patent Document	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages	т6
		Country Code ³ Number ⁴ Kind Code ⁵ (if known)	MM-DD-YYYY		Or Relevant Figures Appear	
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Examiner	Date	
	Considered	
Signature	Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. Applicant's unique citation designation number (optional). See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.